UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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MICHAEL RAY HUGHES,	Case No. 2:12-cv-0660-KJD-PAL
Plaintiff,	**ORDER**
v.	
NEVADA DEPARTMENT OF CORRECTIONS, *et al.*,	
Defendant.	

Before the court is Defendant's Motion to Modify Date and Time in Order (Dkt. #56). In an Order entered June 26, 2014 (Dkt. #55) the court granted Defendants' Motion for Miscellaneous Relief and For an Extension of Time (Dkt. #54). Defendants requested relief from a prior order requiring them to file an answer to the complaint within 60 days of April 18, 2014. The motion represented that on May 20, 2014, Plaintiff contacted several employees of the Office of the Attorney General indicating he was interested in an early resolution. On June 7, 2014, Plaintiff communicated that he was currently living in San Diego County and unable to travel because of illness but would have telephone service in 4 or 5 days and was interested in settlement discussions. The Attorney General's Office therefore requested an enlargement of time to file their answer or other responsive pleading until thirty (30) days after a conference or discussion.

The court granted Defendants' motion for miscellaneous relief somewhat reluctantly because of the age of this case. However, the court granted the request for enlargement of time to file the answer until thirty (30) days after the parties had an informal telephonic settlement discussion as requested. The court made the informal telephonic settlement discussion

1   mandatory on both sides and set a date certain for it to occur as requested. Because of the age of

2   this case the court also set a date certain for an answer to be filed.

3   The motion for miscellaneous relief was filed two days before the defendants' answer

4   was due and did not advise the court of any dates counsel would be unavailable to conduct the

5   informal settlement conference requested. The current motion was filed July 2, 2014 because the

6   assigned attorney from the Attorney General's Office was scheduled to be on vacation between

7   July 5, 2014 and July 13, 2014 in a remote location without telephone or internet access. The

8   motion does not indicate that the Attorney General's Office attempted to communicate with Mr.

9   Hughes by email or telephone. The motion does not indicate whether the Defendants complied

10   with the court's Order (Dkt. #55) requiring them to communicate with the Plaintiff via the email

11   address he provided on June 5, 2014 to advise him that the court's order had been entered and

12   that the parties were ordered to conduct informal discussions telephonically.

13   In short, Defense counsel got what it asked for – an order directing the Plaintiff to meet

14   with Defendants telephonically or in person on a set date and time ordered by the court for the

15   purposes of a good faith, informal settlement discussion. Because counsel did not inform the

16   court of any date or time counsel was unavailable a mandatory, informal telephonic conference

17   was set. It fell during the period counsel was scheduled to be on vacation, and counsel

18   apparently made no arrangements to have another attorney handle the matter. The court assumes

19   the informal telephonic settlement conference did not go forward as counsel for Defendants was

20   out of state. The court has no information at all about whether counsel attempted to reach the

21   Plaintiff to reschedule another date.

22   Having reviewed and considered the matter,

23   **IT IS ORDERED** that:

24   1.   Defendants' Motion to Modify Date and Time in Order (Dkt. #56) is denied. The

25   parties are encouraged   to conduct informal settlement discussions, but under the circumstances

26   the court will not enter another order setting another date and time for a mandatory settlement

27   conference.

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1   2.   The Attorney General shall file an answer as ordered by August 9, 2014 unless

2 the parties have reached a settlement that is memorialized in writing.

3   DATED THIS 10th day of July 2014.

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6   PEGGY A. LEEN
                                UNITED STATES MAGISTRATE JUDGE

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